

State schools chief going to court over McCleary case

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Everett Herald

Thu Jul 14th, 2016 5:24am

Superintendent of Public Instruction Randy Dorn knows school districts use local levies to pay teachers and principals because they don't get enough money from the state to offer competitive salaries.

He is **convinced it is illegal** for them to do this.

So the outgoing chief of Washington's public school system said he intends to sue a few districts to find out.

Dorn is preparing to launch legal action as early as Tuesday in King County Superior Court. He wouldn't say which districts will be named as defendants. It's likely at least one will be from Snohomish County, where the most experienced teachers can earn the highest base pay in the state — thanks in large part to the use of levy dollars.

Everett School District, for example, offers a top base salary of \$97,445 that will rise to \$103,000 for the 2017-18 school year **under a contract approved last fall**. The Mukilteo School District offered \$92,282 at the peak of its salary scale before the district and the teachers' union started negotiating a new contract earlier this year.

Meanwhile the top salary level for equivalent experience in dozens of other school districts hovers around \$67,000 annually, according to a tally compiled by the Washington Education Association. The difference is the result of years of bargained contracts in which school boards agree to use chunks of voter-approved tax levies to pay higher wages. It also reflects the reality that some school districts are unable to pass levies or generate enough money from theirs to offer Everett-sized salaries.

The McCleary decision from the state Supreme Court directs the state to amply fund basic education by 2018 and points out that the use of local levies to cover the costs is unconstitutional.

But that decision doesn't spell out whether it's okay for school districts to do so when the state isn't providing enough money for elements of basic education, such as salaries.

That's what Dorn wants a court to determine. If it turns out he's right, it would bring added pressure on the Legislature and Gov. Jay Inslee to find a remedy that ensures public schools are provided a reliable, equitable and ample source of money to operate.

"I do not fault school districts for doing what they are doing," he said. "That is the hand the Legislature has dealt them."

“My job is to represent the needs of kids in our schools,” he continued, “Some kids are getting a 21st century education, and some teachers are getting paid a 21st century wage. But some kids are not getting a 21st century education, and some teachers are not getting paid a 21st century wage.”

Dorn in November **requested a legal opinion from Attorney General Bob Ferguson** on whether school board members have the authority to use local levies for compensation related to basic education services. **Ferguson declined** to provide one, saying the question came too close to issues encompassed by the ongoing McCleary case.

Dorn then began making plans for legal action.

He said he wanted to file the lawsuit in February while the Legislature was in session, but held off at the behest of some school leaders who wanted to see if lawmakers might address the matter in the session.

They didn't.

Now Dorn, who is retiring at the end of the year after two terms, said he's not waiting any longer, even though some still are asking him to hold off.

“It's never going to be a good time,” he said. “The longer we wait, the worse it gets.”

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